

NATIONAL CAPITAL TRANSPORTATION AMENDMENTS ACT
OF 2007

MAY 9, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WAXMAN, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 401]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 401) to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area Transit Authority, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDINGS.

(a) **SHORT TITLE.**—This Act may be cited as the “National Capital Transportation Amendments Act of 2007”.

(b) **FINDINGS.**—Congress finds as follows:

(1) Metro, the public transit system of the Washington metropolitan area, is essential for the continued and effective performance of the functions of the Federal Government, and for the orderly movement of people during major events and times of regional or national emergency.

(2) On 3 occasions, Congress has authorized appropriations for the construction and capital improvement needs of the Metrorail system.

(3) Additional funding is required to protect these previous Federal investments and ensure the continued functionality and viability of the original 103-mile Metrorail system.

SEC. 2. FEDERAL CONTRIBUTION FOR CAPITAL PROJECTS FOR WASHINGTON METROPOLITAN AREA TRANSIT SYSTEM.

The National Capital Transportation Act of 1969 (sec. 9–1111.01 et seq., D.C. Official Code) is amended by adding at the end the following new section:

“AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTION FOR CAPITAL AND
PREVENTIVE MAINTENANCE PROJECTS

“SEC. 18. (a) **AUTHORIZATION.**—Subject to the succeeding provisions of this section, the Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized under sections 3, 14, and 17, for the purpose of financing in part the capital and preventive maintenance projects included in the Capital Improvement Program approved by the Board of Directors of the Transit Authority.

“(b) **USE OF FUNDS.**—The Federal grants made pursuant to the authorization under this section shall be subject to the following limitations and conditions:

“(1) The work for which such Federal grants are authorized shall be subject to the provisions of the Compact (consistent with the amendments to the Compact described in subsection (d)).

“(2) Each such Federal grant shall be for 50 percent of the net project cost of the project involved, and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Consistent with the terms of the amendment to the Compact described in subsection (d)(1), any funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

“(3) Such Federal grants may be used only for the maintenance and upkeep of the systems of the Transit Authority as of the date of the enactment of the National Capital Transportation Amendments Act of 2007 and may not be used to increase the mileage of the rail system.

“(c) **APPLICABILITY OF REQUIREMENTS FOR MASS TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS UNDER FEDERAL TRANSPORTATION LAW.**—Except as specifically provided in this section, the use of any amounts appropriated pursuant to the authorization under this section shall be subject to the requirements applicable to capital projects for which funds are provided under chapter 53 of title 49, United States Code, except to the extent that the Secretary of Transportation determines that the requirements are inconsistent with the purposes of this section.

“(d) **AMENDMENTS TO COMPACT.**—No amounts may be provided to the Transit Authority pursuant to the authorization under this section until the Transit Authority notifies the Secretary of Transportation that each of the following amendments to the Compact (and any further amendments which may be required to implement such amendments) have taken effect:

“(1)(A) An amendment requiring that all payments by the local signatory governments for the Transit Authority for the purpose of matching any Federal funds appropriated in any given year authorized under subsection (a) for the cost of operating and maintaining the adopted regional system are made from amounts derived from dedicated funding sources.

“(B) For purposes of this paragraph, the term ‘dedicated funding source’ means any source of funding which is earmarked or required under State or local law to be used to match Federal appropriations authorized under this Act for payments to the Transit Authority.

“(2) An amendment establishing the Office of the Inspector General of the Transit Authority in accordance with section 3 of the National Capital Transportation Amendments Act of 2007.

“(3) An amendment expanding the Board of Directors of the Transit Authority to include 4 additional Directors appointed by the Administrator of General

Services, of whom 2 shall be nonvoting and 2 shall be voting, and requiring one of the voting members so appointed to be a regular passenger and customer of the bus or rail service of the Transit Authority.

“(e) ACCESS TO WIRELESS SERVICES IN METRORAIL SYSTEM.—

“(1) REQUIRING TRANSIT AUTHORITY TO PROVIDE ACCESS TO SERVICE.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that customers of the rail service of the Transit Authority have access within the rail system to services provided by any licensed wireless provider that notifies the Transit Authority (in accordance with such procedures as the Transit Authority may adopt) of its intent to offer service to the public, in accordance with the following timetable:

“(A) Not later than 1 year after the date of the enactment of the National Capital Transportation Amendments Act of 2007, in the 20 underground rail station platforms with the highest volume of passenger traffic.

“(B) Not later than 4 years after such date, throughout the rail system.

“(2) ACCESS OF WIRELESS PROVIDERS TO SYSTEM FOR UPGRADES AND MAINTENANCE.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that each licensed wireless provider who provides service to the public within the rail system pursuant to paragraph (1) has access to the system on an ongoing basis (subject to such restrictions as the Transit Authority may impose to ensure that such access will not unduly impact rail operations or threaten the safety of customers or employees of the rail system) to carry out emergency repairs, routine maintenance, and upgrades to the service.

“(3) PERMITTING REASONABLE AND CUSTOMARY CHARGES.—Nothing in this subsection may be construed to prohibit the Transit Authority from requiring a licensed wireless provider to pay reasonable and customary charges for access granted under this subsection.

“(4) REPORTS.—Not later than 1 year after the date of the enactment of the National Capital Transportation Amendments Act of 2007, and each of the 3 years thereafter, the Transit Authority shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the implementation of this subsection.

“(5) DEFINITION.—In this subsection, the term ‘licensed wireless provider’ means any provider of wireless services who is operating pursuant to a Federal license to offer such services to the public for profit.

“(f) CAP ON OVERTIME PAY.—

“(1) IN GENERAL.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority certifies to the Secretary of Transportation that the amount of overtime compensation paid to any employee of the Transit Authority with respect to any pay period does not exceed $\frac{1}{3}$ of the employee’s rate of basic pay for such period.

“(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to pay periods beginning on or after the date of the enactment of the National Capital Transportation Amendments Act of 2007.

“(g) EXCLUSION OF OVERTIME PAY IN CALCULATION OF ANNUAL SALARY USED FOR DETERMINING AMOUNT OF RETIREMENT ANNUITY.—

“(1) IN GENERAL.—To the extent consistent with collective bargaining agreements, no amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority certifies to the Secretary of Transportation that, in determining the amount of any annuity paid to an individual who is separated from employment with the Transit Authority which is based in whole or in part on the compensation paid to the individual during any year, there shall be excluded from the determination of the compensation paid to the individual during the year any amounts paid as overtime compensation.

“(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to compensation paid to an individual during years beginning after the date of the enactment of the National Capital Transportation Amendments Act of 2007.

“(h) AMOUNT.—There are authorized to be appropriated to the Secretary of Transportation for grants under this section an aggregate amount not to exceed \$1,500,000,000 to be available in increments over 10 fiscal years beginning in fiscal year 2009, or until expended.

“(i) AVAILABILITY.—Amounts appropriated pursuant to the authorization under this section shall remain available until expended.”.

SEC. 3. WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY INSPECTOR GENERAL.

(a) ESTABLISHMENT OF OFFICE.—

(1) **IN GENERAL.**—The Washington Metropolitan Area Transit Authority (hereafter referred to as the “Transit Authority”) shall establish in the Transit Authority the Office of the Inspector General (hereafter in this section referred to as the “Office”), headed by the Inspector General of the Transit Authority (hereafter in this section referred to as the “Inspector General”).

(2) **DEFINITION.**—In paragraph (1), the “Washington Metropolitan Area Transit Authority” means the Authority established under Article III of the Washington Metropolitan Area Transit Authority Compact (Public Law 89–774).

(b) INSPECTOR GENERAL.—

(1) **APPOINTMENT.**—The Inspector General shall be appointed by the vote of a majority of the Board of Directors of the Transit Authority, and shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations, as well as familiarity or experience with the operation of transit systems.

(2) **TERM OF SERVICE.**—The Inspector General shall serve for a term of 5 years, and an individual serving as Inspector General may be reappointed for not more than 2 additional terms.

(3) **REMOVAL.**—The Inspector General may be removed from office prior to the expiration of his term only by the unanimous vote of all of the members of the Board of Directors of the Transit Authority, and the Board shall communicate the reasons for any such removal to the Governor of Maryland, the Governor of Virginia, the Mayor of the District of Columbia, the chair of the Committee on Government Reform of the House of Representatives, and the chair of the Committee on Homeland Security and Governmental Affairs of the Senate.

(c) DUTIES.—

(1) **APPLICABILITY OF DUTIES OF INSPECTOR GENERAL OF EXECUTIVE BRANCH ESTABLISHMENT.**—The Inspector General shall carry out the same duties and responsibilities with respect to the Transit Authority as an Inspector General of an establishment carries out with respect to an establishment under section 4 of the Inspector General Act of 1978 (5 U.S.C. App. 4), under the same terms and conditions which apply under such section.

(2) **CONDUCTING ANNUAL AUDIT OF FINANCIAL STATEMENTS.**—The Inspector General shall be responsible for conducting the annual audit of the financial accounts of the Transit Authority, either directly or by contract with an independent external auditor selected by the Inspector General.

(3) REPORTS.—

(A) **SEMIANNUAL REPORTS TO TRANSIT AUTHORITY.**—The Inspector General shall prepare and submit semiannual reports summarizing the activities of the Office in the same manner, and in accordance with the same deadlines, terms, and conditions, as an Inspector General of an establishment under section 5 of the Inspector General Act of 1978 (5 U.S.C. App. 5). For purposes of applying section 5 of such Act to the Inspector General, the Board of Directors of the Transit Authority shall be considered the head of the establishment, except that the Inspector General shall transmit to the General Manager of the Transit Authority a copy of any report submitted to the Board pursuant to this paragraph.

(B) **ANNUAL REPORTS TO LOCAL SIGNATORY GOVERNMENTS AND CONGRESS.**—Not later than January 15 of each year, the Inspector General shall prepare and submit a report summarizing the activities of the Office during the previous year, and shall submit such reports to the Governor of Maryland, the Governor of Virginia, the Mayor of the District of Columbia, the chair of the Committee on Government Reform of the House of Representatives, and the chair of the Committee on Homeland Security and Governmental Affairs of the Senate.

(4) INVESTIGATIONS OF COMPLAINTS OF EMPLOYEES AND MEMBERS.—

(A) **AUTHORITY.**—The Inspector General may receive and investigate complaints or information from an employee or member of the Transit Authority concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety.

(B) **NONDISCLOSURE.**—The Inspector General shall not, after receipt of a complaint or information from an employee or member, disclose the identity of the employee or member without the consent of the employee or member, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(C) PROHIBITING RETALIATION.—An employee or member of the Transit Authority who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee or member as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(5) INDEPENDENCE IN CARRYING OUT DUTIES.—Neither the Board of Directors of the Transit Authority, the General Manager of the Transit Authority, nor any other member or employee of the Transit Authority may prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities assigned to the Inspector General under this section.

(d) POWERS.—

(1) IN GENERAL.—The Inspector General may exercise the same authorities with respect to the Transit Authority as an Inspector General of an establishment may exercise with respect to an establishment under section 6(a) of the Inspector General Act of 1978 (5 U.S.C. App. 6(a)), other than paragraphs (7), (8), and (9) of such section.

(2) STAFF.—

(A) ASSISTANT INSPECTOR GENERALS AND OTHER STAFF.—The Inspector General shall appoint and fix the pay of—

- (i) an Assistant Inspector General for Audits, who shall be responsible for coordinating the activities of the Inspector General relating to audits;
- (ii) an Assistant Inspector General for Investigations, who shall be responsible for coordinating the activities of the Inspector General relating to investigations; and
- (iii) such other personnel as the Inspector General considers appropriate.

(B) INDEPENDENCE IN APPOINTING STAFF.—No individual may carry out any of the duties or responsibilities of the Office unless the individual is appointed by the Inspector General, or provides services procured by the Inspector General, pursuant to this paragraph. Nothing in this subparagraph may be construed to prohibit the Inspector General from entering into a contract or other arrangement for the provision of services under this section.

(C) APPLICABILITY OF TRANSIT SYSTEM PERSONNEL RULES.—None of the regulations governing the appointment and pay of employees of the Transit System shall apply with respect to the appointment and compensation of the personnel of the Office, except to the extent agreed to by the Inspector General. Nothing in the previous sentence may be construed to affect subparagraphs (A) through (B).

(3) EQUIPMENT AND SUPPLIES.—The General Manager of the Transit Authority shall provide the Office with appropriate and adequate office space, together with such equipment, supplies, and communications facilities and services as may be necessary for the operation of the Office, and shall provide necessary maintenance services for such office space and the equipment and facilities located therein.

(e) TRANSFER OF FUNCTIONS.—To the extent that any office or entity in the Transit Authority prior to the appointment of the first Inspector General under this section carried out any of the duties and responsibilities assigned to the Inspector General under this section, the functions of such office or entity shall be transferred to the Office upon the appointment of the first Inspector General under this section.

SEC. 4. STUDY AND REPORT BY COMPTROLLER GENERAL.

(a) STUDY.—The Comptroller General shall conduct a study on the use of the funds provided under section 18 of the National Capital Transportation Act of 1969 (as added by this Act).

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the study conducted under subsection (a).

PURPOSE AND SUMMARY

H.R. 401, the National Capital Transportation Amendments Act of 2007, was introduced on January 11, 2007, by Reps. Tom Davis, Steny H. Hoyer, Frank R. Wolf, Eleanor Holmes Norton, Chris Van

Hollen, James P. Moran, Albert Russell Wynn, and John P. Sarbanes. H.R. 401 authorizes federal funding for needed improvements and maintenance for the Washington Metropolitan Area Transit Authority (WMATA) and improves accountability at WMATA.

The bill authorizes \$1.5 billion in federal funding for capital improvements and critical preventive maintenance needs; requires the Government Accountability Office to conduct a study on the use of the authorized funds and to report to Congress within three years; requires that four directors be added to the WMATA Board of Directors with one voting member to be a regular WMATA passenger; and improves accountability and transparency by establishing an Inspector General for WMATA.

BACKGROUND AND NEED FOR LEGISLATION

The WMATA system is critical to the Washington metropolitan region. WMATA rail and bus services reduce traffic congestion, commute times, and air pollution. These services help federal and local government workers and private sector employees get to work every day and are vital to the millions of tourists who visit the nation's capital every year.

The existing Metro system is aging while at the same time ridership is increasing. A significant investment is needed to meet the increased demand and prevent a decline in service and reliability.

H.R. 401 authorizes \$1.5 billion for capital and renewal projects for WMATA. The authorized funds will allow for needed improvements such as station and facility rehabilitation and tunnel repairs. This funding will also allow WMATA to add new rail cars and buses to ease congestion during peak hours.

H.R. 401 establishes an Inspector General for WMATA. WMATA has suffered from serious management challenges such as inadequate oversight of contracts. This bill strengthens the accountability and transparency of WMATA by requiring that it have an independent Inspector General to oversee and investigate its operations.

LEGISLATIVE HISTORY

H.R. 401 was introduced on January 11, 2007, and referred to the Committee on Oversight and Government Reform. Similar legislation, H.R. 3496, the National Capital Transportation Amendments Act of 2005, was introduced in the 109th Congress and reported by the Committee on a voice vote. H.R. 3496 was passed by the House on a roll call vote of 242–120 but the Senate did not take action on the bill before the end of the 109th Congress.

The Committee considered H.R. 401 on March 29, 2007, but adjourned before completing consideration of the bill. The Committee met on April 18, 2007, and ordered H.R. 401 to be reported, as amended, by a voice vote.

SECTION-BY-SECTION

Section 1. Short title; findings

This section provides that the short title of H.R. 401 is the “National Capital Transportation Amendments Act of 2007.” This section also includes findings of Congress.

Section 2. Federal contribution for capital projects for Washington metropolitan area transit system

This section would amend the National Capital Transportation Act of 1969 by adding a new section, designated as section 18.

Section 18(a) authorizes the Secretary of Transportation to make grants to the Transit Authority to finance capital and preventative maintenance projects included in the Capital Improvement Program approved by the WMATA Board of Directors. These grants are to be in addition to other funding authorized by the National Capital Transportation Act of 1969.

Section 18(b) requires that work performed with the authorized funds be subject to the provisions of the WMATA compact. Each federal grant will be for 50 percent of the net project cost of the relevant project and cannot include other federal funds or general operating revenue. Remaining costs are to be covered by local funds derived from dedicated funding sources. A provision was added to this subsection during Committee consideration of the bill clarifying that the authorized grants are only to be used for maintenance and upkeep of the WMATA systems and may not be used to increase the mileage of the rail system. This provision clarifies that the authorized funding is not intended to fund the extension of Metrorail lines. This provision does not impact in any way WMATA’s ability to use the authorized funds to purchase additional buses or Metrorail cars.

Section 18(c) clarifies that the authorized funds will be subject to certain requirements that normally govern transit grants unless the Secretary of Transportation determines that the requirements are inconsistent with the purposes of the new section 18. These requirements include planning and contracting requirements and are found in chapter 53 of title 49, United States Code.

Section 18(d) provides that WMATA cannot receive any funds authorized by this legislation until it notifies the Secretary of Transportation that certain amendments have been made to the WMATA compact. These include: (1) an amendment requiring that all matching funds from local signatory governments to the compact be made from dedicated funding sources; (2) an amendment establishing an Office of the Inspector General for WMATA; and (3) an amendment expanding the WMATA Board of Directors by four directors appointed by the administrator of the General Services Administration. The additional directors will represent the interests of the federal government. Two of the additional directors will be voting members and two will be nonvoting members. One of the voting members will be a regular WMATA rail or bus passenger.

Section 18(e) provides that WMATA may not receive any of the funding authorized by the bill unless WMATA provides customers access to licensed commercial wireless services from any licensed wireless provider that elects to offer service and notifies WMATA of its intent. Access must be provided on the 20 busiest under-

ground platforms—as measured by passenger traffic—not later than one year after enactment, and throughout the entire rail system not later than four years after enactment. This subsection also requires WMATA to ensure that each licensed wireless provider that elects to offer service to the public within the rail system has ongoing access to the system in order to carry out emergency repairs, routine maintenance, and upgrades.

This subsection addresses a long-standing concern regarding public safety and personal security in the rail system. Currently, only one wireless provider has direct access to Metro rail platforms and tunnels. This subsection mandates that WMATA grant any licensed wireless provider that intends to offer service access to the system. Expanding wireless access in the system is an important step toward making wireless coverage more accessible and reliable.

This measure does not require WMATA to expend resources to fund this effort. It is the hope of the Committee that necessary upgrades to the existing underground wireless system or the installation of a new wireless system can be funded entirely by commercial parties. Subsection (e)(3) makes clear that WMATA is authorized to assess “reasonable and customary charges” for access granted under this provision. The Committee notes, however, that the term “reasonable and customary” means that such charges must be comparable to the amounts charged in similar situations (e.g., tunnels, airports, or other rail systems) around the country.

This subsection also recognizes the limited “track time” available for upgrading existing wireless systems or installing new wireless systems and equipment. The Committee is sensitive to the numerous maintenance and service demands on WMATA, and understands that longer hours of operation leave less time for necessary track work. Therefore, although subsection (e)(2) requires that WMATA grant ongoing access to each licensed wireless provider offering service in the system, it allows WMATA to control such access to avoid serious disruptions in service and to avoid threats to the safety of customers or employees. The Committee expects that WMATA will use this discretion in accordance with applicable deadlines and in a manner consistent with the underlying intent of this provision which was added by amendment during Committee consideration of the bill.

Section 18(f) provides that WMATA may not receive any of the funding authorized by the bill unless WMATA certifies to the Secretary of Transportation that the amount of overtime compensation paid to any WMATA employee in a pay period does not exceed one-third of the employee’s rate of basic pay for that period. This subsection was added by amendment during Committee consideration of the bill.

Section 18(g) provides that WMATA may not receive any of the funding authorized by the bill unless WMATA certifies to the Secretary of Transportation that, to the extent it is consistent with WMATA’s collective bargaining agreements, overtime compensation is excluded from the income used to calculate employee pensions. This subsection was added by amendment during Committee consideration of the bill.

Section 18(h) authorizes \$1.5 billion for grants to be available in increments over a period of ten fiscal years beginning in fiscal year 2009 or until expended.

Section 18(i) provides that funds appropriated pursuant to the authorization provided by this legislation are to remain available until expended. This section, as introduced, also provided that funds appropriated pursuant to this authorization are to be made in addition to, and not in lieu of, any other funds made available to WMATA. This language was removed during Committee consideration. Neither this language nor the removal of this language has any substantive effect. This bill is an authorization bill and any actual funding will come through the appropriations process.

Section 3. Washington Metropolitan Area Transit Authority Inspector General

This section increases accountability and transparency by establishing an inspector general for WMATA.

Subsection (a) requires WMATA to establish an Office of the Inspector General headed by an Inspector General for WMATA.

Subsection (b) requires that the Inspector General be appointed by a majority vote of the WMATA Board of Directors and without regard to political affiliation and solely on the basis of integrity, demonstrated abilities, and experience. This subsection also provides that the Inspector General is to serve for a term of five years and can be reappointed for up to two additional terms. The Inspector General may only be removed from office before the end of his term by a unanimous vote of all members of the WMATA Board of Directors and the Board is required to communicate the reason for removal to Congress and state and local officials.

Subsection (c) provides that the Inspector General will carry out the same duties and responsibilities as an Inspector General carries out under the Inspector General Act of 1978. The Inspector General will be responsible for conducting an annual audit of the financial accounts of WMATA and must prepare semiannual reports. The Inspector General may receive and investigate complaints or information from WMATA members and employees and must protect the identity of the person bringing the complaint unless there is consent or disclosure is unavoidable. This subsection prohibits retaliation against any WMATA member or employee that brings a complaint or discloses information to the Inspector General. This subsection prohibits WMATA from preventing the Inspector General from carrying out his duties.

Subsection (d) provides that the Inspector General may exercise the same authorities with respect to WMATA as an Inspector General under the Inspector General Act of 1978. The Inspector General will appoint and set the pay for an Assistant Inspector General for Audits, an Assistant Inspector General for Investigations, and any other staff the Inspector General considers appropriate. This subsection preserves the independence of the Office of the Inspector General by providing that only individuals appointed or contracted by the Inspector General may carry out the duties of the Office. This subsection clarifies that Office of the Inspector General personnel are only subject to WMATA's appointment and pay regulations at the discretion of the Inspector General. This subsection requires the General Manager of WMATA to provide the Inspector General with adequate office space and maintenance services.

Subsection (e) requires that to the extent any office or entity in WMATA carries out any of the duties and responsibilities assigned

to the Inspector General, those functions be transferred to the Office of the Inspector General at the time the first Inspector General is appointed.

Section 4. Study and report by Comptroller General

Subsection (a) requires the Government Accountability Office to conduct a study on the use of funds authorized by this legislation.

Subsection (b) requires the Government Accountability Office to submit to Congress a report on the study conducted under subsection (a) within three years.

EXPLANATION OF AMENDMENTS

The following amendments were adopted in Committee:

Mr. Waxman and Mr. Davis offered an amendment, passed by voice vote, to establish a deadline by which WMATA must allow rail customers access to services offered by licensed wireless providers. The amendment requires WMATA to provide access to licensed commercial wireless services on the 20 busiest underground platforms—as measured by passenger traffic—not later than one year after enactment, and throughout the entire rail system not later than four years after enactment. The provision also requires WMATA to ensure that each licensed wireless provider that elects to offer service to the public within the rail system has ongoing access to the system in order to carry out emergency repairs, routine maintenance and upgrades.

Mrs. Foxx offered an amendment, which passed by voice vote, clarifying that the authorized funding may only be used for the maintenance and upkeep of WMATA systems and may not be used to increase the mileage of the rail system. The amendment also struck the language in the bill stating that the authorized funds are to be in addition to, not in lieu of, other funding made available to WMATA. This has no substantive effect. This bill is an authorization bill and any actual funding will come through the appropriations process.

Mrs. Foxx offered an amendment to offset the amount of funding appropriated each year under the authorization contained in the underlying bill with other federal transit grant funding. Mr. Towns raised a point of order claiming it was not germane because it concerned multiple provisions outside the jurisdiction of the Committee. The Chair sustained the point of order, explaining that the amendment is outside the scope of the bill and outside the jurisdiction of the Committee.

Mr. Westmoreland offered an amendment, which passed by voice vote, prohibiting WMATA from receiving any funds authorized by the underlying bill unless WMATA certifies to the Secretary of Transportation that the amount of overtime compensation paid to any WMATA 6 employee in a pay period does not exceed one-third of the employee's rate of basic pay for that period. The Chair noted in accepting the amendment that it is important for the Committee to continue to review the amendment and to consult with WMATA on the amendment.

Mr. Westmoreland offered an amendment, which passed by voice vote, providing that, to the extent it is consistent with collective bargaining agreements, WMATA be prohibited from receiving any funds authorized by the underlying bill unless WMATA certifies to

the Secretary of Transportation that overtime compensation is excluded from the income used to calculate employee pensions. The Chair noted in accepting the amendment that he did so with the understanding that the Committee will continue to review the amendment and consult WMATA on how the amendment will work in practice.

COMMITTEE CONSIDERATION

On Wednesday, April 18, 2007, the Committee met in open session and favorably ordered H.R. 401 to be reported to the House by a voice vote.

ROLLCALL VOTES

No rollcall votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations.

H.R. 401 authorizes federal funds for the Washington Metropolitan Area Transit Authority and creates an Inspector General for the Authority. This bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report, including the need for federal funding to allow the Washington Metropolitan Area Transit Authority to make capital improvements and to meet critical preventive maintenance needs.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including authorizing federal funding for the Washington Metropolitan Area Transit Authority and creating an inspector general for the Authority.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 401. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 401 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 401. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 401 from the Director of the Congressional Budget Office:

April 27, 2007.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Oversight and Government Reform, House of Representatives Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 401, the National Capital Transportation Amendments Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 401—National Capital Transportation Amendments Act of 2007

Summary: H.R. 401 would authorize the appropriation of \$1.5 billion for grants to the Washington Metropolitan Area Transit Authority (WMATA) for capital and preventive maintenance projects. Assuming appropriation of the amount specified in the bill, CBO estimates that implementing H.R. 401 would cost \$236 million over the 2010–2012 period and an additional \$1.3 million after 2012.

H.R. 401 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would authorize funding for WMATA activities; any costs to the transit authority, the District of Columbia, Maryland, and Virginia would result from complying with conditions of that federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 401 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	0	0	150	150	150
Estimated Outlays	0	0	38	83	115

Basis of estimate: H.R. 401 would authorize the Secretary of Transportation to make grants to WMATA to cover 50 percent of the cost of capital and preventive maintenance projects listed in the Capital Improvement Program approved by the transit authority's board of directors. For those grants, the bill would authorize the appropriation of \$1.5 billion to the Secretary. For this estimate, CBO assumes that the authorized amount will be appropriated in equal installments over a 10-year period, beginning in 2010.

Before receiving the grants, Maryland, Virginia, and the District of Columbia would need to amend the WMATA compact to add four members to the Board of Directors and to make changes to the operation of the Office of the Inspector General. Further, those entities would be required to establish funding sources dedicated solely to the transit authority. CBO expects that those requirements would delay the award of grants until at least 2010.

Assuming appropriation of the \$1.5 billion authorized under H.R. 401, CBO estimates that implementing the bill would cost \$236 million over the 2010–2012 period and another \$1,264 million after 2012. That estimate of outlays is based on historical spending patterns of grants for similar capital and maintenance projects for mass transit systems.

Estimated impact on state, local, and tribal governments: H.R. 401 contains no intergovernmental mandates as defined in UMRA.

As a condition of receiving \$1.5 billion over 10 years for certain capital and preventative maintenance projects, the bill would require WMATA to:

- Establish an Office of the Inspector General;
- Expand the Board of Directors;
- Restrict the maximum amount of overtime pay paid to any WMATA employees to one-third of their rate of basic pay for the period;

- Exclude overtime pay from the retirement annuity calculation for WMATA employees, and
- Insure access of rail customers to wireless service.

Also, as a condition of receiving these grants, the District of Columbia, Maryland, and Virginia would be required to earmark funds to match the federal assistance. The bill would restrict the use of federal funds to maintenance and upkeep only.

Estimated impact on the private sector: H.R. 401 contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Sarah Puro. Impact on State, Local, and Tribal Governments: Elizabeth Cove. Impact on the Private Sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

NATIONAL CAPITAL TRANSPORTATION ACT OF 1969

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AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTION FOR CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS

SEC. 18. (a) AUTHORIZATION.—Subject to the succeeding provisions of this section, the Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized under sections 3, 14, and 17, for the purpose of financing in part the capital and preventive maintenance projects included in the Capital Improvement Program approved by the Board of Directors of the Transit Authority.

(b) USE OF FUNDS.—The Federal grants made pursuant to the authorization under this section shall be subject to the following limitations and conditions:

(1) The work for which such Federal grants are authorized shall be subject to the provisions of the Compact (consistent with the amendments to the Compact described in subsection (d)).

(2) Each such Federal grant shall be for 50 percent of the net project cost of the project involved, and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Consistent with the terms of the amendment to the Compact described in subsection (d)(1), any funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(3) Such Federal grants may be used only for the maintenance and upkeep of the systems of the Transit Authority as of the date of the enactment of the National Capital Transportation Amendments Act of 2007 and may not be used to increase the mileage of the rail system.

(c) *APPLICABILITY OF REQUIREMENTS FOR MASS TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS UNDER FEDERAL TRANSPORTATION LAW.*—Except as specifically provided in this section, the use of any amounts appropriated pursuant to the authorization under this section shall be subject to the requirements applicable to capital projects for which funds are provided under chapter 53 of title 49, United States Code, except to the extent that the Secretary of Transportation determines that the requirements are inconsistent with the purposes of this section.

(d) *AMENDMENTS TO COMPACT.*—No amounts may be provided to the Transit Authority pursuant to the authorization under this section until the Transit Authority notifies the Secretary of Transportation that each of the following amendments to the Compact (and any further amendments which may be required to implement such amendments) have taken effect:

(1)(A) An amendment requiring that all payments by the local signatory governments for the Transit Authority for the purpose of matching any Federal funds appropriated in any given year authorized under subsection (a) for the cost of operating and maintaining the adopted regional system are made from amounts derived from dedicated funding sources.

(B) For purposes of this paragraph, the term “dedicated funding source” means any source of funding which is earmarked or required under State or local law to be used to match Federal appropriations authorized under this Act for payments to the Transit Authority.

(2) An amendment establishing the Office of the Inspector General of the Transit Authority in accordance with section 3 of the National Capital Transportation Amendments Act of 2007.

(3) An amendment expanding the Board of Directors of the Transit Authority to include 4 additional Directors appointed by the Administrator of General Services, of whom 2 shall be nonvoting and 2 shall be voting, and requiring one of the voting members so appointed to be a regular passenger and customer of the bus or rail service of the Transit Authority.

(e) *ACCESS TO WIRELESS SERVICES IN METRORAIL SYSTEM.*—

(1) *REQUIRING TRANSIT AUTHORITY TO PROVIDE ACCESS TO SERVICE.*—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that customers of the rail service of the Transit Authority have access within the rail system to services provided by any licensed wireless provider that notifies the Transit Authority (in accordance with such procedures as the Transit Authority may adopt) of its intent to offer service to the public, in accordance with the following timetable:

(A) Not later than 1 year after the date of the enactment of the National Capital Transportation Amendments Act of 2007, in the 20 underground rail station platforms with the highest volume of passenger traffic.

(B) Not later than 4 years after such date, throughout the rail system.

(2) *ACCESS OF WIRELESS PROVIDERS TO SYSTEM FOR UPGRADES AND MAINTENANCE.*—No amounts may be provided to the Transit Authority pursuant to the authorization under this

section unless the Transit Authority ensures that each licensed wireless provider who provides service to the public within the rail system pursuant to paragraph (1) has access to the system on an ongoing basis (subject to such restrictions as the Transit Authority may impose to ensure that such access will not unduly impact rail operations or threaten the safety of customers or employees of the rail system) to carry out emergency repairs, routine maintenance, and upgrades to the service.

(3) *PERMITTING REASONABLE AND CUSTOMARY CHARGES.*—Nothing in this subsection may be construed to prohibit the Transit Authority from requiring a licensed wireless provider to pay reasonable and customary charges for access granted under this subsection.

(4) *REPORTS.*—Not later than 1 year after the date of the enactment of the National Capital Transportation Amendments Act of 2007, and each of the 3 years thereafter, the Transit Authority shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the implementation of this subsection.

(5) *DEFINITION.*—In this subsection, the term “licensed wireless provider” means any provider of wireless services who is operating pursuant to a Federal license to offer such services to the public for profit.

(f) *CAP ON OVERTIME PAY.*—

(1) *IN GENERAL.*—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority certifies to the Secretary of Transportation that the amount of overtime compensation paid to any employee of the Transit Authority with respect to any pay period does not exceed $\frac{1}{3}$ of the employee’s rate of basic pay for such period.

(2) *EFFECTIVE DATE.*—Paragraph (1) shall apply with respect to pay periods beginning on or after the date of the enactment of the National Capital Transportation Amendments Act of 2007.

(g) *EXCLUSION OF OVERTIME PAY IN CALCULATION OF ANNUAL SALARY USED FOR DETERMINING AMOUNT OF RETIREMENT ANNUITY.*—

(1) *IN GENERAL.*—To the extent consistent with collective bargaining agreements, no amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority certifies to the Secretary of Transportation that, in determining the amount of any annuity paid to an individual who is separated from employment with the Transit Authority which is based in whole or in part on the compensation paid to the individual during any year, there shall be excluded from the determination of the compensation paid to the individual during the year any amounts paid as overtime compensation.

(2) *EFFECTIVE DATE.*—Paragraph (1) shall apply with respect to compensation paid to an individual during years beginning after the date of the enactment of the National Capital Transportation Amendments Act of 2007.

(h) *AMOUNT.*—*There are authorized to be appropriated to the Secretary of Transportation for grants under this section an aggregate amount not to exceed \$1,500,000,000 to be available in increments over 10 fiscal years beginning in fiscal year 2009, or until expended.*

(i) *AVAILABILITY.*—*Amounts appropriated pursuant to the authorization under this section shall remain available until expended.*

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ADDITIONAL VIEWS OF RANKING MEMBER TOM DAVIS

These additional views are being submitted in support of H.R. 401, the National Capital Transportation Amendments Act of 2007.

This legislation would reaffirm the federal government's long-standing commitment to the regional bus and rail system critical to keeping the government open and operating efficiently.

As we have discussed before, the precedent for federal investment in the region's rail and bus system dates back to 1960, when President Eisenhower signed the "National Capital Transportation Act," creating the agency responsible for developing a regional rail system for the Nation's Capital. Since that time, Congress has periodically infused the system with funding for construction of the original 103-mile system.

The federal government has a vested interest in the long-term sustainability of the Metro system. After all, approximately half of the system's peak ridership is composed of federal employees and contractors and over 50 federal agencies in the National Capital Region are located adjacent to Metro stations. These federal agencies rely on WMATA to get their employees to and from the workplace year-round, in all types of weather.

Unlike other transit systems throughout the country, however, the Washington Metropolitan Area Transit Authority cannot generate revenues from the property adjacent to Metro stations because the property is disproportionately occupied by federal buildings, embassies and non-profit organizations. H.R. 401 makes up for this discrepancy.

In exchange for the reauthorization of federal funding, H.R. 401 would require Maryland, D.C. and Virginia to, at long last, develop dedicated funding sources for the Metro system. To address some of the management challenges facing Metro, H.R. 401 would also establish an inspector general for the Washington Metropolitan Area Transit Authority to oversee its spending and finances, and it would add four federal members to WMATA's Board of Directors.

In addition, the legislation would make cell phone service more available to passengers by requiring Metro to allow for the provision of and upgrade to commercial wireless phone services throughout the rail system.

The House passed legislation similar to H.R. 401 last Congress but we were unable to get it through the Senate before time ran out. I appreciate the Chairman's commitment to moving this legislation in the 110th Congress.

TOM DAVIS.

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